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10/719,574

11/21/2003

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CS23345US

3255

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02/23/2005

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| EXAMINER |
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GELIN, JEAN ALLAND

|          |              |
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| ART UNIT | PAPER NUMBER |
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2681

DATE MAILED: 02/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/719,574

Applicant(s)

SNOWDEN ET AL.

Examiner

Jean A Gelin

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8, 11, 16, 17, 19, 20 and 22-24 is/are rejected.
- 7) ☒ Claim(s) 7, 9, 10, 12-15, 18 and 21 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 11/21/03.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 5, and 6 are rejected under 35 U.S.C. 102(e) as being anticipated by Terry et al. (US 6,587,697).

Regarding claim 1, Terry teaches a method of operating a portable communication device, comprising the steps of: detecting a communication uplink change (power change is detected in path loss calculation, col. 4, lines 46-50); determining whether said communication uplink change is practicable (i.e., use the path calculation to determine proper power, col. 4, lines 45-65); and permitting said communication uplink change if said communication uplink change is determined by the portable communication device to be practicable (determining appropriate uplink power, col. 5, line 39 to col. 6, line 31).

Regarding claim 5, Terry teaches wherein said step of detecting an uplink change event includes detecting a power change request (col 5, lines 39-42).

Regarding claim 6, Terry teaches monitoring uplink performance (i.e., the mobile continuously calculates path loss to use appropriate uplink power (col. 5, lines 16-35)).

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3. Claims 20, 22-24 are rejected under 35 U.S.C. 102(e) as being anticipated by Hamabe (US 2002/0111163).

Regarding claims 20, 24, Hamabe teaches a method of operating a network to communicate with at least one portable communication device (as shown in fig. 2), the method comprising the steps of: determining that a portable communication device requires a power change (while measuring SIR, paragraph 74); transmitting to the portable communication device a power change request ( sending commands to mobile whether to increase or decrease power, 74), receiving from the portable communication device a response to said power change request comprising an uplink allocation change (paragraphs 83-85); and transmitting an updated uplink channel allocation if available (paragraphs 83-85, 89, and 143).

Regarding claim 22, Hamabe teaches retransmitting a power change request upon transmitting said updated uplink channel allocation (paragraphs 157-158).

Regarding claim 23, Hamabe teaches participating in a hand-off procedure to a better communication link if a decrease in channel allocation is required to support a higher uplink transmit power (paragraphs 73, 285-287).

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2-4, 11, 16, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Terry et al. (US 6,587,697) in view of Lee et al. (US 2003/0050086).

Regarding claim 2, Terry teaches all the limitations above except detecting an uplink allocation change event.

However, the preceding limitation is known in the art of communications. Lee teaches when the transmission data rate is changed, the mobile station adjusts its transmit power (paragraphs 83-89). Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to implement the technique of Lee within the system of Terry in order that the mobile station starts transmission of packet with the minimum data rate of 9.6 kbps without permission of the base station.

Regarding claim 3, Terry in view of Lee teaches all the limitations above. Terry further teaches detecting an event requesting a time slot characteristic change (col. 5, lines 1-10, col. 6, lines 32-49).

Regarding claim 4, Terry in view of Lee teaches all the limitations above. Lee further teaches detecting an event requesting a change in the number of channel codes (paragraphs 140-148).

Regarding claim 11, Terry teaches all the limitations above except the step of evaluating alternatives if said uplink change event is not practicable.

However, the preceding limitation is known in the art of communications. Lee teaches the mobile station determines alternative way to control the transmission of data (paragraphs 148-150). Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to implement the technique of Lee within the

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system of Terry in order that the mobile station increasingly adjusts the reference pilot signal level after a prescribed delay or decreasingly adjusts it without a delay in accordance with the changed data rate.

Regarding claim 16, Terry teaches portable communication device, comprising: a transceiver (i.e., to transmit/receive over the RF link 25, col. 4, lines 38-58), and a controller coupled to said transceiver (col. 4, lines 30-56), said controller operable to respond to a channel uplink change event to determine whether an uplink change resulting from said channel uplink change event is practicable (i.e., use the path calculation to determine proper power, col. 4, lines 45-65), and to permit said uplink change if said uplink change is practicable (determining appropriate uplink power, col. 5, line 39 to col. 6, line 31).

Terry fails to teach evaluating the alternatives. However, the preceding limitation is known in the art of communications. Lee teaches the mobile station determines alternative way to control the transmission of data (paragraphs 148-150). Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to implement the technique of Lee within the system of Terry in order that the mobile station increasingly adjusts the reference pilot signal level after a prescribed delay or decreasingly adjusts it without a delay in accordance with the changed data rate.

Regarding claim 17, Terry in view of Lee teaches all the limitations above. Lee further teaches wherein said controller is operable to request an increase in an uplink allocation (paragraph 148).

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6. Claims 8, 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Terry et al. (US 6,587,697) in view of Lutgen et al. (US 6,317,224)

Regarding claims 8, 19, Terry teaches all the limitations above except wherein said step of monitoring further includes monitoring data throughput capacity.

However, the preceding limitation is known in the art of communications. Lutgen teaches the step of monitoring the channel quality of the uplink which is targeted to carry data; in response to monitoring, modifying the channel throughput capacity to dynamically adjust the transfer rate of data (col. 5, lines 1-50). Therefore, it would have been obvious to one of ordinary skill in art, at the time of the invention, to implement the technique of Lutgen within the system of Terry in order to transfer data at a rate that is not greater than the channel's throughput capacity.

#### ***Allowable Subject Matter***

7. Claims 7, 9, 10, 12-15, 18, and 21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

|                  |                 |            |
|------------------|-----------------|------------|
| Tong et al.      | US 6,311,070    | 10/30/2001 |
| Koorapaty et al. | US 6,289,211    | 09/11/2001 |
| Kim              | US 2003/0110506 | 06/12/2003 |
| Kaku             | US 6,542,728    | 04/01/2003 |

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|--------------|--------------|------------|
| Obara        | US 6,304,749 | 10/16/2001 |
| Agin         | US 6,549,785 | 04/15/2003 |
| Sunay et al. | US 5,940,743 | 08/17/1999 |

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jean A Gelin whose telephone number is (703) 305-4847. The examiner can normally be reached on 9:30 AM to 7:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on (703) 306-0003. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**JEAN GELIN**  
**PRIMARY EXAMINER**

JGelin  
February 20, 2005

